

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOVEL COMMODITIES S.A.,

Plaintiff,

-against-

ARDEMAR MARINE LIMITED.,

Defendant.

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/24/09

ORDER

09 Civ. 8291 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

Plaintiff Novel Commodities S.A. commenced this action on September 30, 2009 by filing a Verified Complaint seeking \$502,966.05 in damages. On September 30, 2009, Plaintiff additionally applied for an ex parte order for Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Admiralty Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure. The property which Plaintiff sought to attach took the form of electronic fund transfers (“EFTs”) being processed by intermediary banks in New York. Plaintiff’s Affidavit did not specify any other property that might be found within this District other than EFTs.

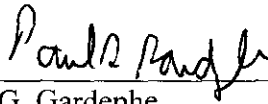
On October 16, 2009, the Second Circuit decided Shipping Corporation of India Ltd. v. Jaldhi Overseas Pte Ltd., 08-3477-cv (L), 08-3758-cv (XAP). In that decision, the court, with the consent of all of the judges in active service, overruled Winter Storm Shipping, Ltd. v. TPI, 310 F.3d 263, 278 (2d Cir. 2002), concluding “that EFTs being processed by an intermediary bank are not subject to attachment under Rule B.” Shipping Corp. of India, at *1-2.

In light of the Second Circuit's decision in Shipping Corporation of India Ltd. v. Jaldhi Overseas Pte Ltd., it is hereby ORDERED that Plaintiff's application for Process of Maritime Attachment and Garnishment is DENIED without prejudice. Should Plaintiff wish to renew its application for Process of Maritime Attachment, Plaintiff shall file an Amended Verified Complaint setting forth the bases for its belief that the Defendant's property, in a form other than EFTs, may be found within this District. At that time, this Court will reconsider whether the requirements of Rule B have been met.

IT IS FURTHER ORDERED THAT Plaintiff shall submit any Amended Verified Complaint no later than **November 9, 2009**. Absent the submission of a properly supported Amended Verified Complaint, or an affidavit showing good cause why the case should not be dismissed, the action will be dismissed without prejudice.

Dated: New York, New York
October 26, 2009

SO ORDERED.



Paul G. Gardephe
United States District Judge